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**INTERNATIONAL BOUNDARY AND WATER COMMISSION
UNITED STATES AND MEXICO
MEXICAN SECTION**

(Seal
Secretariat of
Foreign Relations)

TRANSLATION
No.: CEU 01925/08
File: CEU/286

**RE: Approval of Minute 314 by the
Government of Mexico.**

Ciudad Juarez, Chih., November 25, 2008.

ENG. WILLIAM C. RUTH
United States Commissioner
International Boundary and Water Commission
The Commons Building C. Suite C100
4171 North Mesa
EL PASO, TEXAS 79902

Dear Commissioner Ruth:

It is my pleasure to inform you that the Government of Mexico on November 24, 2008, has deemed it favorable to approve Minute 314, entitled "Extension of the Temporary Emergency Delivery of Colorado River Water for Use in Tijuana, Baja California," signed on November 14, 2008.

I would appreciate you informing me when the Government of the United States approves the aforementioned Minute in order for it to take effect pursuant to the provision in Resolution 6 therein.

I take this opportunity to reiterate to you the assurance of my attentive and distinguished consideration.

Sincerely,
Signed

**Luis Antonio Rascon Mendoza
Interim Mexican Commissioner**



OFFICE OF THE COMMISSIONER
UNITED STATES SECTION

INTERNATIONAL BOUNDARY AND WATER COMMISSION
UNITED STATES AND MEXICO
November 26, 2008

No.: US 278/08
File: WAC 11 Tijuana Emergency
Deliveries (Minute 314)

Engineer Luis Antonio Rascón Mendoza
Interim Commissioner for the Mexican Section
International Boundary and Water Commission
Post Office Box 10525
El Paso, Texas 79995

Dear Interim Commissioner Rascon:

I refer to your letter No. CEU 01925/08 dated November 25, 2008, by means of which you informed me of the approval by the Government of Mexico of Minute No. 314, "Extension of the Temporary Emergency Delivery of Colorado River Water for Use in Tijuana, Baja California," signed on November 14, 2008 in Ciudad Juarez, Chihuahua.

I am pleased to inform you that by a letter dated November 26, 2008, from the United States Department of State, and in accordance with Resolution 6 of the subject Minute, I have been informed that the United States Government has approved Minute No. 314 with the amended Joint Report of the Principal Engineers to Facilitate Emergency Delivery of Colorado River Water for Use in Tijuana, Baja California..

Sincerely,

C. W. Ruth, P.E.
Commissioner

**INTERNATIONAL BOUNDARY AND WATER COMMISSION
UNITED STATES AND MEXICO.**

Ciudad Juarez, Chihuahua
November 14, 2008

MINUTE NO. 314

**EXTENSION OF THE TEMPORARY EMERGENCY DELIVERY OF
COLORADO RIVER WATER FOR USE IN TIJUANA, BAJA CALIFORNIA**

The Commission met at the offices of the Mexican Section in Ciudad Juarez, Chihuahua on November 14, 2008 at 10:00 am, to consider the request by the Baja California State Water Commission (CEA) to extend for an additional five-years the delivery to Tijuana, Baja California, through the Otay International Connection, of a portion of the Colorado River waters allotted to Mexico under the "United States-Mexico Treaty for Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande," signed February 3, 1944 (hereinafter the 1944 Water Treaty), based on the principles established in International Boundary and Water Commission Minute No. 240, entitled, "Emergency Deliveries of Colorado River Waters for Use in Tijuana" dated June 13, 1972, as subsequently amended and extended, and most recently in Commission Minute No. 310, entitled, "Emergency Delivery of Colorado River Water for Use in Tijuana, Baja California" dated July 28, 2003, which is scheduled to expire in November 2008.

The Commissioners considered the information provided by the CEA and by the State Public Utility Commission of Tijuana (CESPT) that in light of a potential contingency that could affect the region's water supply and due to involuntary delays in the execution of the "Expansion of the Colorado River-Tijuana Aqueduct," they foresee partial water supply shortage periods in the next five years, until said infrastructure improvements are able to cover the growing needs over the short and medium term. The Commissioners observed that the connection constructed to enable emergency water deliveries to Mexico at the international land boundary at Otay Mesa-Mesa de Otay, under Minute No. 240, as subsequently amended and extended, was rehabilitated at a cost to Mexico for the emergency deliveries to resume and continue, also at a cost to Mexico. The Commissioners noted that CESPT has fulfilled the commitment stipulated in the "Joint Report of the Principal Engineers to Facilitate Emergency Delivery of Colorado River Water for Use in Tijuana, Baja California," dated July 11, 2003, which forms part of Commission Minute No. 310, to reimburse funds spent by the Otay Water District (OWD) on the installation of equipment necessary for the deliveries and not recovered by deliveries made during the five year period covered under Minute No. 310 through rates charged per cubic meter of water delivered on site and sent to the City of Tijuana through October 2008.

The U.S. Commissioner informed that the United States Bureau of Reclamation (Bureau), and the California agencies: San Diego County Water Authority (SDCWA), the Metropolitan Water District of Southern California (MWD), and the Otay Water District, which own and operate the conveyance system from Parker Dam on the Colorado River to the Otay Water District, are able and willing, in principle, to make the

emergency water deliveries to Tijuana, B.C. in the volumes and periods as estimated by the CESPT, to avoid the water supply shortages for the next five years starting November 11, 2008 through November 9, 2013.

The Commissioners reviewed the 2003 "Joint Report of the Principal Engineers to Facilitate Emergency Delivery of Colorado River Water for Use in Tijuana, Baja California," which forms part of Commission Minute No. 310, and they concur that the terms and conditions of the 2003 Joint Report will remain in full force and effect, as specified in the attached and amended Joint Report which forms an integral part of this Minute. Additionally, Table 1 entitled "Charges to Mexico for Emergency Deliveries for Tijuana of a Portion of Mexico's 1944 Colorado River Treaty Water," which forms an integral part of the amended Joint Report, has been revised to reflect the current cost of deliveries.

Based on the foregoing, the Commissioners adopted the following resolutions, subject to the approval of the two Governments:

1. That Commission Minute No. 310 shall be extended for an additional year, to allow for the delivery at the international land boundary to Tijuana, Baja California, of a portion of Colorado River waters allotted to Mexico in the 1944 Water Treaty, between November 11, 2008 and November 10, 2009, in a manner that does not affect the delivery or discharge of water to the United States customers.
2. That Commission Minute No. 310 may be extended for subsequent one year periods for a total not to exceed five years, to allow delivery at the international land boundary to Tijuana, Baja California, of a portion of Colorado River waters allotted to Mexico in the 1944 Water Treaty until November 9, 2013, subject to an annual exchange of diplomatic notes between the two governments. The annual deliveries shall be made in accordance with procedures adopted annually by the Commission.
3. That the Government of Mexico shall assure that payment is made by CESPT, in advance of each delivery, of any and all financial costs incurred in making the water deliveries at a cost to Mexico that is equivalent to that charged to United States customers in that area.
4. That the water deliveries shall be made in accordance with the provisions in the "Amended Joint Report of the Principal Engineers to Facilitate Emergency Delivery of Colorado River Water for Use in Tijuana, Baja California," signed by U.S. Section Principal Engineer Alfredo J. Riera and Mexican Section Principal Engineer Luis Antonio Rascon Mendoza, October 24, 2008, a copy of which is attached and forms an integral part of this Minute.
5. That all activities undertaken pursuant to this Minute shall be subject to the availability of funds, resources, and corresponding personnel, as well as to applicable laws and regulations in each country.

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UNITED STATES AND MEXICO.

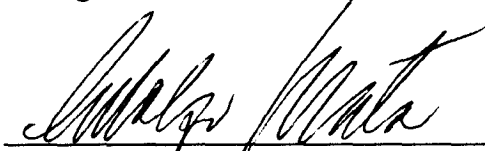
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6. That this Minute shall enter into force upon notification of approval by the Government of the United States of America and the Government of the United Mexican States through the respective Sections of the Commission.

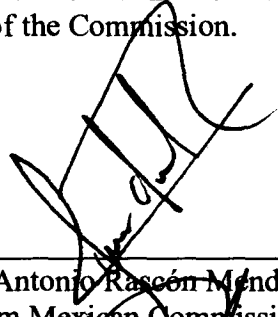
The meeting then adjourned:



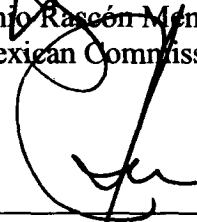
Alfredo J. Riera
Acting United States Commissioner



Adolfo Mata
United States Section Secretary



Luis Antonio Rascón Mendoza
Interim Mexican Commissioner



José de Jesús Luévano Grano
Mexican Section Secretary

**INTERNATIONAL BOUNDARY AND WATER COMMISSION
UNITED STATES AND MEXICO**

Ciudad Juarez, Chihuahua
October 24, 2008

**AMENDED JOINT REPORT OF THE PRINCIPAL ENGINEERS
TO FACILITATE EMERGENCY DELIVERY OF COLORADO RIVER WATER
FOR USE IN TIJUANA, BAJA CALIFORNIA**

To the Honorable Commissioners
International Boundary and Water Commission
United States and Mexico
El Paso, Texas and Ciudad Juarez, Chihuahua

Sirs:

Pursuant to your instructions, we respectfully submit this Joint Report in furtherance of the interest expressed by water authorities in San Diego, California and Tijuana, Baja California in effecting emergency deliveries, through the aqueduct system in southern California, of a portion of the waters of the Colorado River allotted to Mexico by Article 10(a) of the "United States – Mexico Treaty for Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande," signed February 3, 1944 (1944 Water Treaty). Low water reserves resulting from drought conditions over the Tijuana River watershed and continued growth of the Tijuana, B.C. metropolitan area have resulted in a projected shortage of water to supply the needs of the city in the near future. Unless these emergency water deliveries are made, the municipalities of Tijuana and Rosarito, B.C., which currently have a population of about 1,300,000 inhabitants, will suffer serious shortages of water. Mexican water authorities are developing plans to provide for future water supply; however, construction of needed infrastructure will be costly and will take several years to implement. Part of this planning includes execution of a binational feasibility study with the San Diego County Water Authority (SDCWA) authorized under Minute No. 301 of the International Boundary and Water Commission, United States and Mexico (IBWC), concerning a potential binational aqueduct to increase the water supply to the San Diego-Tijuana region.

We note that three California agencies have previously cooperated in providing emergency delivery of Colorado River waters to Tijuana prior to the construction of Mexico's Colorado River Aqueduct in Baja California during the 1970's. The deliveries were made through the facilities of the Metropolitan Water District of Southern California (MWD), SDCWA, and Otay Water District (OWD) through an extension of the OWD water transmission system, constructed at a cost to Mexico for the delivery of water to Tijuana at the international boundary at Otay Mesa. These California agencies have expressed a willingness to do so again, subject to the availability of capacity in their systems, and reimbursement of all costs for conveyance of the water deliveries and construction of improvements to the OWD connection system along with other aspects of environmental protection.

We observe the information of the California agencies in the sense that the cost for the deliveries would be equivalent to the costs for similar deliveries to United States users in the area. An

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advance payment shall be required, which the California agencies will determine quarterly, equivalent to the cost for three months of emergency deliveries. Due to the fluctuation and uncertainty regarding energy costs in the State of California, actual energy costs may exceed the estimated costs for making the emergency deliveries, which would require the establishment of a reserve fund in an amount ranging from \$25,000 to \$500,000, United States currency (USD), as determined by the California agencies each quarter after reviewing the water delivery requests and energy costs.

We also observe that the improvements to the metering and delivery facilities of the OWD system were constructed by the SDCWA during October and November 2001 at a cost to the Tijuana State Public Services Commission (CESPT) of \$335,554.89 USD. The financing and construction were supervised by the IBWC. The construction of the improvements to the system consisted of the installation of pipelines, backflow prevention valves to safeguard United States water supplies, and metering equipment to provide accurate measurement of waters delivered to Mexico. The improvements are owned and operated by OWD for the purposes of effecting water deliveries to Tijuana. Repairs to the said improvements which may be required solely for the purpose of making emergency water delivery to Tijuana will be paid by the government of Mexico.

New equipment installed by OWD to comply with air quality standards has capacity for both domestic requirements and deliveries to Tijuana. The incremental equipment costs associated with deliveries to Tijuana was at a cost of \$793,560.00 USD. Part of the cost was paid with payment made by Mexico of \$52,847.00 USD, through quarterly payments during the first five years for water deliveries at the rate of approximately \$43 USD per acre-foot (\$0.04 USD per cubic meter), costs which were already included in the unit cost for water delivered on site. The rest of the equipment costs, \$740,713.00 USD, not recovered by quarterly payments for water deliveries due to Mexico requesting less volumes of water, were paid in full on June 2008.

Considering the responsibilities of the IBWC in the application of the 1944 Water Treaty, particularly the provision that the IBWC maintain a record of waters belonging to each country, we note the information of the United States Section that it is feasible to divert, on an emergency basis, a part of the Mexican treaty waters through the facilities at Parker Dam on the Colorado River, located 169 miles (272 kilometers) upstream of the Northerly International Boundary and deliver the waters, less conveyance losses charged to Mexico's treaty waters, to the international boundary at Otay Mesa. The measuring device requested by the California agencies has been installed at the Otay Mesa connecting facilities and will support the IBWC's water accounting. We observe that the impact, both in volume and quality, of the resultant reduction in treaty waters delivered to Mexico at the Northerly International Boundary would be insignificant.

We reviewed the requirements of the IBWC and of the California agencies for making the water deliveries, as well as the needs of CESPT to request and receive the waters. We observed that to ensure that these requirements are met, the United States has concluded arrangements with the California agencies under laws applicable in the United States and that Mexico has concluded arrangements with the State of Baja California under applicable laws in Mexico. The United States Section will coordinate through SDCWA the actions of the California agencies and the

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Mexican Section will coordinate through CESPT the actions of Baja California. Based on these arrangements, we propose the following procedure for making the emergency deliveries:

A. Scheduling Emergency Water Deliveries

1. The Mexican Section, beginning in the year in which deliveries are initiated, will present to the United States Section an annual schedule of emergency water deliveries developed by the CESPT for emergency deliveries of water required monthly. The request corresponding to the initial year of water deliveries will be made at least 45 days prior to the delivery start date. Should deliveries be authorized for subsequent years, the requests will be made by September 15 of each preceding year. Such water amounts will be subject to the availability of delivery capacity of the California agencies and should, in any event, not exceed the capacity of the inter-connection facility of approximately 1,200 acre-feet (1.5 million cubic meters)/month.
2. The United States Section will consult with the SDCWA and will respond within 30 days after receipt of the request for delivery concerning the availability of capacity, and limitations if any, for the delivery of the scheduled volumes of water for Tijuana, B.C. for deliveries requested during the initial period. Also, the United States Section will ascertain from the SDCWA whether and to what extent a limitation of deliveries is foreseen during subsequent annual periods.
3. Subject to authorization through an exchange of diplomatic notes between the U.S. and Mexican governments, the United States Section, upon receipt of the advance payment in conformance with Part B of this Joint Report, will assure that the deliveries are made within the delivery capacity and limitations mentioned in the previous paragraph unless service interruptions or other emergencies beyond the United States Section's control cause temporary suspension of deliveries. The deliveries to Tijuana at the international boundary will consist of the requested volumes. The volume charged to Mexico's treaty deliveries will consist of the delivered volume plus the conveyance losses in accordance with the attached Table 1, "Charges to Mexico for Emergency Deliveries to Tijuana of a Portion of Mexico's 1944 Colorado River Treaty Water." For this purpose, the local work group (IBWC, SDCWA, MWD, OWD, Mexico's National Water Commission (CNA), Baja California State Water Commission (CEA) and CESPT) will take readings at the meter installed for this purpose at Otay Mesa at the international boundary on the last day of each month that deliveries are made to Mexico.
4. The Mexican Section will assure receipt of these emergency deliveries in a continuous manner consistent with the requested and agreed-to amounts, without causing an interruption in water deliveries at the international boundary.
5. During any year in which water deliveries are made, the Mexican Section may request unanticipated additional or reduced volumes of waters allotted to Mexico under the 1944 Water Treaty, needed by the CESPT for subsequent periods. The U.S. Section, upon consultation with the SDCWA, will advise the Mexican Section as soon as possible, if

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capacity is available and if there are any limitations in making the additional deliveries. The CESPT, through the Mexican Section, will provide funds to cover the cost for the additional water deliveries within 15 days after this notification or will schedule compensating reductions in volume for a subsequent period of the same quarter. Except in extraordinary circumstances, the Mexican Section will not submit a request for unanticipated additions or reductions in emergency deliveries for any period for which an additional or reduced volume has been requested.

6. In the event that the California agencies are not able to make the water deliveries because of capacity limitations, service interruptions, or other emergencies, the United States Section will immediately notify the Mexican Section before any suspension of deliveries is done. In case the water supply is suspended for reasons other than those mentioned above, the United States Section will reimburse funds equivalent to the cost of the suspended deliveries which CESPT may have paid in advance.

B. Funding Emergency Water Deliveries

1. The Mexican Section will assure the payment by the CESPT for the emergency water deliveries to Tijuana in accordance with the following arrangement:
 - a. The cost for emergency water deliveries to Tijuana will be based on the volume of water measured at the Otay Mesa metering facility at the international boundary, plus system conveyance losses through the various California conveyance systems from the diversion point near Parker Dam to Otay Mesa at the international boundary, and will be equivalent to costs for similar deliveries to United States users in the said area. For the water deliveries made in the first year of effect of the present agreement, the cost is estimated in accordance with the schedule of charges in attached Table 1. Actual costs will be based on the delivery schedule. Delivery costs for subsequent years will be determined by October 15 each year except for estimated charges associated with the cost of electrical energy, which will be reported quarterly. The United States Section, upon consultation with SDCWA, will advise the Mexican Section 45 days prior to the beginning of each quarterly period whether funds shall be deposited in the electrical energy reserve fund.
 - b. Before the beginning of each quarterly delivery period, payments will be made to the United States Section equal to three months of water deliveries, a minimum of 15 days prior to the beginning of the corresponding quarter. Withdrawals will be made monthly as described in Part B.2.
 - c. Additionally, before the beginning of each quarter of deliveries, payments will be made to the United States Section, ranging from \$25,000 to \$500,000 USD, as determined by the SDCWA based upon the volume of water requested and future energy costs, only as necessary, based on high fluctuations in energy costs in the State of California.

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- d. In the event unanticipated additional deliveries are requested, the Mexican Section will provide funds from CESPT to cover the costs for these water deliveries within 15 days after notification of acceptance by the United States Section.
 - e. Nonpayment of the advance quarterly payment for the service will be cause for suspension of the water deliveries.
2. The United States Section will administer the funds received from the Mexican Section in the following manner:
- a. The United States Section will provide the funds to the SDCWA for deposit into an interest bearing bank account in which the interest income generated will be reinvested in the same account. The interest earned on the account will be based on the average monthly interest rate as reported on the SDCWA's Monthly Treasurer's Report for the SDCWA Operating Fund and will be calculated at the end of each month. The SDCWA will provide to the IBWC through the United States Section a monthly report including a detailed breakout of the costs for each monthly delivery, the total funds withdrawn from Mexico's account, the interest income generated in the account, and the balance remaining in the account. IBWC may request any clarifications to the monthly report from SDCWA within a maximum of 60 days. If no clarifications are requested by IBWC within 60 days, it shall be concluded that IBWC is in agreement with the information contained in the monthly report.
 - b. Similarly, the United States Section will provide a monthly report detailing the funds set aside for the energy reserve fund, advising of the actual energy costs associated with the monthly water deliveries, and the available funds and an estimate of the costs required for the succeeding quarter.
 - c. Upon termination of this agreement on emergency deliveries, the United States Section will provide to the Mexican Section a final balance sheet prepared by the SDCWA covering actual costs for the delivered waters. If there are remaining funds plus interest, these will be reimbursed to Mexico through the IBWC. If the Mexican funds are not sufficient to cover the final costs, Mexico will provide additional funds within 15 days of notice from the United States Section.

C. Coordination

The IBWC will form a local work group which will include at least one representative from each agency in the United States and Mexico involved in this matter. Those agencies are defined to include IBWC (United States and Mexican Sections), SDCWA, MWD, OWD, CAN, CEA and CESPT. The work group will meet at least once a month to receive reports on the operation and the above procedures and the handling of funds received from Mexico and to exchange information, as well as for jointly addressing any unforeseen situation which may arise regarding this matter.

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D. Water Deliveries Monitoring

The IBWC will account for the Colorado River waters delivered under this emergency delivery arrangement, including system conveyance losses, and charge them against Mexico's allotment of Colorado River waters provided for in Article 10(a) of the 1944 Water Treaty following the provisions in Article 15B of the said Treaty for quantities delivered at mutually agreed points on the land boundary. During the period of emergency deliveries to Tijuana the salinity differential between Imperial Dam and the Northerly International Boundary, described in Resolution 1.a of Minute 242, will be calculated as if the water delivered for use in Tijuana were delivered from Imperial Dam at the Northerly International Boundary.

E. Water Supply Planning for Tijuana, Baja California

With each annual request for emergency deliveries, Mexico, through the CESPT-CEA, will provide an update of programs and projects being implemented to secure an adequate water supply for the Tijuana, B.C. area.

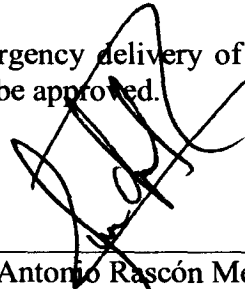
Recommendations

Based on the above, we respectfully recommend:

That the procedures described in this report for providing emergency delivery of a portion of Mexico's Colorado River water for use in the Tijuana, B.C. area be approved.



Alfredo J. Riera, P.E.
Principal Engineer
United States Section



Luis Antonio Rascón Mendoza
Principal Engineer
Mexican Section

INTERNATIONAL BOUNDARY AND WATER COMMISSION
UNITED STATES AND MEXICO

TABLE 1

Charges to Mexico for Emergency Deliveries for Tijuana of a Portion of Mexico's 1944 Colorado River Treaty Water Effective November 11, 2008	
	On the basis of total water handled including losses, at unit charge for total water**
Delivery to Mexico	
1. Water delivered to Mexico at international boundary near Tijuana (acre-feet) as measured at Service Connection SD-TJ	
Payment to the Otay Water District (OWD)	
2. OWD system loss* at 3.0 percent of Line 1 (acre-feet)	
3. OWD total deliveries (Line 1 plus Line 2) (acre-feet)	
4. Unit payment due OWD for delivery charges and other expenses (\$/acre-foot)	\$96.48
5. Total payment to OWD (Line 3 times Line 4) (\$)	
Payment to the San Diego County Water Authority (SDCWA)	
6. Water delivered by SDCWA for Mexico; same as Line 3 (acre-feet)	
7. SDCWA system loss* at 1.0 percent of Line 3 (acre-feet)	
8. SDCWA total deliveries (Line 6 plus Line 7) (acre-feet)	
9. Unit payment due SDCWA for delivery charges and other expenses (\$/acre-foot) (Unit charge is equivalent to SDCWA Transportation Rate)	\$60.00/acre-foot Effective January 1, 2009: \$64.00/ acre-foot
10. Total payment to Authority (Line 8 times Line 9) (\$)	
Payment to Metropolitan Water District (MWD)	
11. Water delivered by MWD for Mexico; same as Line 8 (acre-feet)	
12. MWD system loss* at 3.6 percent of Line 8 (acre-feet)	
13. MWD total deliveries (Line 11 plus Line 12) (acre-feet)	
14. Unit payment due MWD for use of existing diversion and conveyance works, water treatment, and other expenses (Unit charge includes MWD's System Access Rate, Water Stewardship Rate and Treatment Surcharge) (\$/acre-foot)	\$325.00/ acre-foot. Effective January 1, 2009: \$335.00/ acre-foot
15. Unit payment due MWD for electric energy, determined as the average energy cost (\$/megawatt-hour), including foregone sales, incurred by MWD for the incremental amount of water for the month that the water was delivered multiplied by 2.38 (includes pumping costs, loss of MWD's share of energy generated at Parker Dam Power Plant, and loss of Southern California Edison Company Benefit Energy) (\$/acre-foot)	Estimated Unit Payment November 2008: \$278.00/ acre-foot December 2008: \$278.00/AF January 2009: \$221.00/ acre-foot
16. Total payment to MWD [(Line 13 times Line 14) plus (Line 13 times Line 15)] (\$)	
17. Total Charge (Line 5, plus lines 10 and 16) (\$)***	
*Portion of Treaty Water diverted by MWD at Lake Havasu **All amounts are stated in U.S. Currency ***Rounding errors may occur.	